

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CARLOS GILBERT LAW,
Plaintiff,
v.
STAR MOONEY, et al.,
Defendants.

Case No. 23-cv-05287-JST

**ORDER REGARDING AMENDED
COMPLAINT**

Re: ECF No. 10

Plaintiff has filed the instant *pro se* civil rights action pursuant to 42 U.S.C. § 1983. On November 13, 2023, the Court screened the complaint and found that it stated a cognizable claim against Defendant San Francisco Police Department (“SFPD”) Officer Balingit and dismissed the claims against SFPD Officers Mooney and Russak, as well as the *Monell* claim against the City and County of San Francisco with leave to amend. On November 16, Plaintiff filed an amended complaint with the Court. ECF No. 10. While the amended complaint names Officer Balingit in the caption, the body of the complaint only states a claim against Officer Mooney. *Id.* Naming a defendant in the caption is insufficient to state a claim against the person and an amended complaint completely replaces the previous complaints. *Falck N. Cal. Corp. v. Scott Griffith Collaborative Sols., LLC*, 25 F.4th 763, 765 (9th Cir. 2022); *see also Ferrin v. City of San Rafael*, No. 22-cv-02101-JST, 2022 WL 20243402, at *1 (N.D. Cal. Apr. 14, 2022). Accordingly, the amended complaint waives the cognizable claims against Officer Balingit that were stated in the initial complaint, and Officer Balingit will no longer be a defendant in this action.


Because the Court is uncertain whether Plaintiff seeks to waive his claims against Officer Balingit, the Court orders Plaintiff to inform the Court, within twenty-eight days of the date of this order, whether he wishes to proceed with the amended complaint. If Plaintiff informs the Court

1 that he wishes to proceed with the amended complaint, the Court will screen the amended
2 complaint at that time.

3 Because an amended complaint completely replaces the previous complaints, Plaintiff
4 must include in his second amended complaint all the claims he wishes to present, all of the
5 defendants he wishes to sue, and all the relief he requests, including claims, defendants, and
6 requests for relief presented in prior complaints. Plaintiff may not incorporate material from the
7 prior complaints by reference. Piecemeal amendments of pleadings are disfavored. The Court
8 will not piece together Plaintiff's claims, named defendants, and requests for relief from different
9 pleadings.

10 **IT IS SO ORDERED.**

11 Dated: December 8, 2023

12 
13 JON S. TIGAR
14 United States District Judge

United States District Court
Northern District of California